

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**David Rus,**  
Appellant,

**v.**

**Polk County Board of Review,**  
Appellee.

**ORDER**

**Docket No. 13-77-0705**  
**Parcel No. 060/07137-000-000**

On January 24, 2014, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant David Rus was self-represented. Assistant County Attorneys Ralph Marasco, Jr. and David Hibbard represent the Board of Review. The Appeal Board now, having examined the entire record and being fully advised, finds:

***Findings of Fact***

David Rus is the owner of residentially classified property located at 2818 Easton Boulevard, Des Moines, Iowa. He protests the January 1, 2013, assessment of \$105,200, representing \$16,800 in land value and \$88,400 in improvement value. Rus protested on the ground that the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a)(1). The Board of Review denied the protest.

Rus then appealed to this Board reasserting his claim. He asserts the correct value is \$90,800.

According to the property record card, Rus' property is one-story home with a finished attic built in 1950. It has a 100% brick exterior, 1130 square feet of above-grade living area, and a full basement with 420 square-feet of low-quality finish. The property also has a 600 square-foot detached garage built in 1952. The subject site is 0.172 acres.

On his protest to the Board of Review, Rus listed the addresses and assessments of five properties he considered as equity comparables. The assessments range from \$76,300 to \$95,400. He did not submit any new information to this Board. In general, the properties submitted by Rus offer similar age, size, and utility, although there are some differences in condition, grade, and amenities. In particular, we note Rus' comparables generally lack similar basement area and basement finish as the subject. In addition, most of his comparables lack comparable garage improvements, air conditioning, and have smaller lots. However, we ultimately do not find it necessary to determine if the properties submitted by Rus are sufficiently comparable, as there is no evidence in the record that any of the properties recently sold in an arm's-length transaction. An equity analysis typically compares *prior year sale prices* (2012 sales in this case) or established market values to the *current year's assessment* (2013 assessment) to determine the assessment/sales-ratio. Absent this evidence, Rus otherwise would need to provide evidence to show the assessor did not uniformly apply assessment methods to the subject property and other similarly situated properties. Rus made no such claim.

The Board of Review submitted three properties it considered for an equity analysis. Like Rus' comparables, there is no evidence that any of the properties has sold. Therefore, we give them no consideration.

### ***Conclusions of Law***

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all

of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

*Id.* at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires

assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

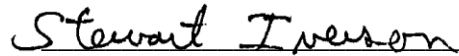
Rus' evidence did not establish inequity in the assessment under either test. He failed to supply any sales data for comparable or similarly situated properties to complete an assessment/sales-ratio analysis. Additionally, Rus did not assert the assessor applied an assessment method in a non-uniform manner to similarly situated properties. For these reasons, we find Rus failed to provide sufficient evidence to support a claim that his property was inequitably assessed.

THE APPEAL BOARD ORDERS the 2013 assessment of the David Rus' property located at 2818 Easton Boulevard, Des Moines, Iowa, is affirmed.

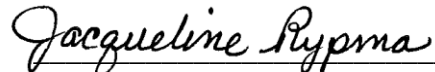
Dated this 17th day of February, 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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